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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,205	01/04/2005	Toru Ikuta	2224-0236PUS1	7719

2292 7590 11/03/2008  
BIRCH STEWART KOLASCH & BIRCH  
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EXAMINER
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FIGUEROA, JOHN J

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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11/03/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/520,205	<b>Applicant(s)</b> IKUTA ET AL.	
	<b>Examiner</b> JOHN J. FIGUEROA	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-11,13-20 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1,3-11,13-20 and 22-24 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/22/2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restriction***

1. This application, as amended on July 22, 2008, contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1 and species of the composite dispersion recited in claims 1 and 16 have "a priori lack of unity." See MPEP 1850 (II) and 1893.03(d).

The species are the composite dispersions recited in independent claims 1 and 16 having the following components to which the claims shall be restricted if no generic claim is finally held to be allowable.

(A) The crosslinkable group-containing resin (independent claim 1) having an unsaturated bond and a member selected from:

- i.) polyamide-series thermoplastic resin;
- ii.) polyester-series thermoplastic resin;
- iii.) polyoxyalkylene-series thermoplastic resin;
- iv.) polythioether-series thermoplastic resin;
- v.) polycarbonate-series thermoplastic resin;
- vi.) polyimide-series thermoplastic resin;
- vii.) polysulfone-series thermoplastic resin;
- viii.) polyurethane-series thermoplastic resin;

- ix.) polyolefin-series resin thermoplastic resin;
- x.) halogen-containing resin thermoplastic resin;
- xi.) styrenic thermoplastic resin;
- xii.) (meth)acrylic thermoplastic resin; and
- xiii.) thermoplastic elastomer.

(B) The combination of resin and unvulcanized rubber (claim 16) selected from:

- a.) said combination wherein the unvulcanized rubber contains a vulcanization agent and a vulcanization-activating agent having the weight ratio recited in component (a) of claim 16, wherein the vulcanization-activating agent is an organic compound having two polymerizable unsaturated bonds or maleimide-series compound;
- b.) the combination of a polyamide-series resin and an unvulcanized rubber containing a polyalkenylene having the weight ratio recited in component (b) of claim 16;
- c.) a combination of a resin and a silicone-series unvulcanized rubber; and
- d.) a combination of a polyphenylene ether-series resin containing a polyalkenylene and an unvulcanized rubber having a sulfur-containing organic compound as a vulcanizing agent.

Applicant must choose one resin/elastomer from the 13 thermoplastic resin/elastomers listed above for the resin component recited in claim 1 as stated above in (A) [that is, one polymer/elastomer from i.) to xiii.)]

Applicant must also choose one combination from the four listed above for the component of claim 16 as stated above in (B).

The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. The claims are deemed to correspond to the species listed above in the following manner claims 1, 3-11, 13-15, 20 and 22-24 encompass species listed above in (A), whereas claims 16-20 and 22-24 encompass species listed above in (B).

The following claim(s) are deemed generic: 1, 7, 13, 16-18, 20 and 22-24.

3. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, in addition to the groups listed above having "a prior lack of unity," the species lack the same or corresponding special technical features for the following reasons: composite dispersions having a continuous phase and dispersed phase having a blend of a vulcanized rubber and unsaturated olefin polymer (special technical feature) are known in the art as evidenced by EP 0 710 701 A1 to Johnson et al., cited in the prior Office Action of April 22, 2008 (*See particularly*, Page 2, lines 40-49 of the Johnson reference).

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN J. FIGUEROA whose telephone number is (571)272-8916. The examiner can normally be reached on Monday-Thursday 8:00-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJF/RAG

/John J. Figueroa/  
Examiner, Art Unit 1796